



3 September 2020

Joint Standing Committee on the NDIS
PO Box 6100
Parliament House
Canberra ACT 2600

By email: ndis.sen@aph.gov.au

Dear members of the Joint Standing Committee on the NDIS,

RE: Questions on notice – 18 August 2020 hearing

Thank you for the invitation to appear as a witness before the Committee at its 18 August 2020 hearing, in relation to the Office of the Public Advocate's (OPA) submission to the inquiry on the NDIS workforce. Below I provide you with answers to the questions taken on notice.

1. Can you provide the Committee with some examples of inadequacies in staff training that have concerned the Community Visitors?

Community Visitors have made recommendations for minimum qualifications for staff in disability services since at least 2008. Every year in their annual report to Parliament, Community Visitors provide a breakdown of the issues they identify, of which 'staff training' is one of many categories. In 2018-19, Community Visitors identified 165 issues related to staff training and support in disability residential services.

Community Visitors consider training to be directly related to quality and safety within services and they identify three recurring areas for improvements.

Abuse detection and response

The establishment of an anti-abuse culture within disability services requires strong leadership and continuous professional development. Community Visitors recommend that all disability workers and providers should be required to complete mandatory abuse detection and response training. While some forms of abuse are obvious to detect, training contributes to a more sophisticated understanding of actions that put residents at risk of abuse, neglect and exploitation.

The Committee might note that in its 2016 *Inquiry into Abuse in Disability Services*, the Victorian Family and Community Development Committee made a recommendation that all disability support services in Victoria receive training on a zero tolerance approach.

In the NDIS context, unregistered workers are only required to complete the online orientation on the *NDIS Code of Conduct*, and as mentioned in both our submission and at the hearing, OPA and Community Visitors consider the Code to be inadequate in affirming a zero-tolerance approach to violence within services. It is critical that NDIS workers and

providers be equipped to identify abuse, but also that they receive clear directives as to how to escalate and respond to incidents.

Positive behaviour support

Community Visitors observe the effect of poor-quality behaviour support plans for residents in need of a high level of behaviour supports. Some plans do not adequately reflect participant needs, which increases the pressure on staff and can disturb others in the house.

Often, this can be adequately addressed through the amendment of a plan and subsequently with staff undertaking training on positive behaviour support, behaviour management strategies, and restrictive interventions. Enhanced capacity of staff in this area positively impacts on the wellbeing of residents, as evidenced by a reduction in behaviours of concern. The following example from the 2018-19 Community Visitors Annual Report illustrates the tangible changes that can occur from staff training:

A new resident caused upheaval in a well-presented, purpose-built DAS house with all female residents. DAS invested additional staff support and training to develop appropriate strategies and Community Visitors were pleased to learn that staff were proactive, putting up a screen so residents going up and down the corridor could not see each other and set off conflict.

It is essential that training for the provision of behaviour supports be tailored to each individual and their circumstances, as I mentioned in my opening statement at the hearing.

Incident reporting

Community Visitors observe that documentation in some services is often inaccessible, of poor standard or out of date, pointing to inadequacies in reporting practices. Absent or incomplete records compromise the care provided to residents, particularly when new or casual staff are reliant on information contained in records for handover. Poor recording and reporting also diminish the oversight of Community Visitors who rely on incident reports to carry out crucial functions and understand what has occurred between their visits.

Other areas for improvement

Other areas identified by Community Visitors in which disability workers would benefit from further training are:

- Developing strategies to support residents with complex communication needs. Not unlike positive behaviour support, training should be individualised and based on communication assessments and recommendations made by speech pathologists. Speech pathologists usually train frontline staff on strategies to be implemented to support a participant.
- Training on the administration of medication. Community Visitors continue to identify errors in the administration of medication which, in the most serious examples, can lead to hospitalisation.
- Training for the provision of feeding support. The Disability Services Commissioner report referenced below contains further evidence of the need for this specific type of training.

In closing, I refer the Committee to the Victorian Disability Services Commissioner's *Review of disability services provision to people who have died 2018-19*. This report identifies training needs for staff within disability services and is invaluable in understanding what could be done to raise the quality and safety of services within the sector and diminish the

occurrence of avoidable harm to participants. The Committee may want to encourage the NDIS Quality and Safeguards Commission to undertake a similar style of investigation to concurrently report on deaths within NDIS-funded accommodation settings.

2. What are the key findings relating to the disability workforce from the 'I'm too scared to come out of my room' report commissioned by the Vic Public Advocate that the Committee should be aware of?

I'm too scared to come out of my room is an OPA report that was submitted to the Royal Commission into violence, abuse, neglect and exploitation of people with disability. It focusses on the issue of violence between co-residents in group homes by seeking to identify its systemic root causes.

From a worker's perspective, a group home is a place of work, but first and foremost, it is someone's home. The same is true for other NDIS services, that they are provided within the intimacy of a participant's home. This is central to the report which draws upon, as suggested in its title, the right of everyone to feel safe in their own homes.

Chapter 4 is entirely dedicated to workforce related issues and addresses education and training, supply and continuity, and workforce selection. It makes the following four recommendations:

Recommendation 14. The NDIA should require that all behaviour support practitioners and SIL workers have a competency standard equivalent to Certificate IV in disability to ensure consistent and safe supports across the system to help prevent potentially harmful behaviours.

Recommendation 15. The Australian Government should review the *Growing the NDIS Market and Workforce Strategy* to ensure it addresses recommendations made by the Productivity Commission's study of NDIS Costs in relation to workforce targets.

Recommendation 16. The NDIS Quality and Safeguards Commission should consider the recent report by the Victorian Disability Services Commissioner, *Building safe and respectful cultures in disability services for people with disability*, and use it to inform the development of best practice guidelines for NDIS providers on creating safety within services.

Recommendation 17. The Australian Government, in collaboration with the NDIS Quality and Safeguards Commission, should amend the *NDIS Code of Conduct* and related guidance to reflect a zero-tolerance approach to abuse.

Chapter 5 is on incident reporting. The complaints-based model that is central to current NDIS safeguarding arrangements means that quality and safety in NDIS services is significantly reliant on the integrity of individual workers and providers, not all of whom are registered. While no specific recommendation is made to this effect, the report encourages providers to promote a culture of reporting, and OPA believes the NDIS Quality and Safeguards Commission has a role in this endeavour.

Guidance for workers and providers on incident reporting should not only state how and when to report that violence has occurred, but also describe the steps and follow up that should take place to respond to it. In 2013, OPA collaborated with a range of organisations to publish the *Interagency Guideline for Addressing Violence, Neglect and Abuse* (IGUANA). IGUANA is a good practice guideline for providers, workers, and volunteers working with adults with disability who are at risk of violence, neglect or abuse. Despite being published prior to the NDIS roll out, the principles behind the recommended course of action still hold currency. OPA would like to see an updated IGUANA or similar resource developed for the NDIS workforce.

3. Has Government support for the disability workforce during COVID-19 been sufficient? What more could be done?

OPA congratulates federal and state governments on the efficacy of their overarching pandemic suppression strategy – the health and safety of many people with disability would have been at much greater risk had the strategy not been in place.

While advice from government officials, both at the federal and state-levels, initially failed to clarify what lockdown meant for people with disability who rely on carers for activities of daily living, more recent public health directions have provided far greater clarity about the conditions that apply in ‘care facilities’ and in private homes where people with disability may be residing.

The Victorian Department of Health and Human Services (DHHS) is now collaborating with National Disability Services (NDS) Victoria (peak body for disability services) to explain complexities contained in the legal directions to providers. In August, NDS began hosting a fortnightly forum for providers, in the context of their *Safer and Stronger* project. The forum includes presentations by representatives from DHHS, the NDIA and the NDIS Quality and Safeguards Commission. The NDIS Quality and Safeguards Commission continues to publish a variety of online resources including links to updates, training, alerts, and resources for NDIS participants and providers.

OPA is pleased that the Victorian Government has recently established a stronger Disability Response Centre and a Coronavirus (COVID-19) Disability Taskforce. The purpose of the Taskforce is to gather expertise to inform effective care and supports for people with disability and reduce the risks posed by COVID-19. The Public Advocate sits on this Taskforce, which is chaired by the Victorian Minister for Disability, Ageing and Carers, and consists of representatives from across the disability sector (including DHHS, NDIA and the NDIS Quality and Safeguards Commission).

One thing that Community Visitors have observed is some facilities limiting access to residents by service providers (i.e. NDIS-funded providers) who are not directly employed by the residential facility. For example, residents in aged care, Supported Residential Services, and some disability residential services have not been able to continue with their usual NDIS-funded support workers and activities. Practices vary and depend on decisions made by proprietors and organisations managing individual facilities. Similar restrictions apply to people with disability who do not live in residential care but nonetheless are impacted in multiple ways as the services they rely on are suspended or are now mostly provided online.

A further point I would raise concerns the increasing casualisation of the disability workforce, which was observable before the COVID-19 pandemic. In the context of a public health emergency, having a highly casualised workforce poses obvious risks to the health and safety of NDIS participants. OPA has been concerned about casual workers working across multiple sites and possibly across sectors as well. A policy is now in place to reduce worker mobility.

As a final comment I note that OPA welcomed the announcement by the NDIA of the formation of a (temporary) panel of experienced disability service providers who could be called upon to offer additional workforce support, and accommodation settings, to providers of residential supports. This is a good example of market intervention, and OPA here reiterates that there is an ongoing need for a provider of last resort framework to be established as a permanent fixture of the NDIS market, not only as a response to a public health emergency. The Committee has made this recommendation in several of its reports and OPA here repeats that a provider of last resort is at times necessary to ensure participants with complex needs can access the services they require.

Once again, I thank the Committee for its engagement with OPA and would welcome any future opportunity to contribute to its inquiries.

Yours sincerely,

John Chesterman (Dr)
Deputy Public Advocate